

House Study Bill 629 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

A BILL FOR

1 An Act relating to the provision of medical support in child
2 support actions, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 252C.1, subsection 6, Code 2018, is
2 amended to read as follows:

3 6. *"Medical support"* means ~~either the provision of~~
4 ~~coverage under a health benefit plan, including a group or~~
5 ~~employment-related or an individual health benefit plan, or~~
6 ~~a health benefit plan provided pursuant to [chapter 514E](#), to~~
7 ~~meet the medical needs of a dependent and the cost of any~~
8 ~~premium required by a health benefit plan, or the payment to~~
9 ~~the obligee of a monetary amount in lieu of providing coverage~~
10 ~~under a health benefit plan, either of which is an obligation~~
11 ~~separate from any monetary amount of child support ordered~~
12 ~~to be paid. Medical support which consists of payment of~~
13 ~~a monetary amount in lieu of a health benefit plan is also~~
14 ~~an obligation separate from any monetary amount a parent is~~
15 ~~ordered to pay for uncovered medical expenses pursuant to the~~
16 ~~guidelines established pursuant to [section 598.21B](#) medical~~
17 ~~support as defined in section 252E.1.~~

18 Sec. 2. Section 252E.1, Code 2018, is amended to read as
19 follows:

20 **252E.1 Definitions.**

21 As used in [this chapter](#), unless the context otherwise
22 requires:

23 1. *"Accessible"* means any of the following, unless otherwise
24 provided in the support order:

25 a. The health benefit plan does not have service area
26 limitations or provides an option not subject to service area
27 limitations.

28 b. The health benefit plan has service area limitations and
29 the dependent lives within thirty miles or thirty minutes of a
30 network primary care provider.

31 2. *"Basic coverage"* means health care coverage ~~provided~~
32 ~~under a health benefit plan~~ that at a minimum provides coverage
33 for emergency care, inpatient and outpatient hospital care,
34 physician services whether provided within or outside a
35 hospital setting, and laboratory and x-ray services.

1 3. "Cash medical support" means a monetary amount that
2 a parent is ordered to pay to the obligee in lieu of that
3 parent providing health care coverage, which amount is five
4 percent of the gross income of the parent ordered to pay the
5 monetary amount or, if the child support guidelines established
6 pursuant to section 598.21B specifically provide an alternative
7 income-based numeric standard for determining the amount,
8 the amount determined by the standard specified by the child
9 support guidelines. "Cash medical support" is an obligation
10 separate from any monetary amount a parent is ordered to pay
11 for uncovered medical expenses pursuant to the guidelines
12 established pursuant to section 598.21B.

13 ~~3.~~ 4. "Child" means a person for whom child or medical
14 support may be ordered pursuant to [chapter 234](#), [239B](#), [252A](#),
15 [252C](#), [252F](#), [252H](#), [252K](#), [598](#), [600B](#), or any other chapter of the
16 Code or pursuant to a comparable statute of another state or
17 foreign country.

18 ~~4.~~ 5. "Department" means the department of human services,
19 which includes but is not limited to the child support recovery
20 unit, or any comparable support enforcement agency of another
21 state.

22 ~~5.~~ 6. "Dependent" means a child, or an obligee for whom a
23 court may order health care coverage ~~by a health benefit plan~~
24 pursuant to [section 252E.3](#).

25 ~~6.~~ 7. "Enroll" means to be eligible for and covered by a
26 health benefit plan.

27 ~~7.~~ 8. "Health benefit plan" means any policy or contract
28 of insurance, indemnity, subscription or membership issued by
29 an insurer, ~~health service corporation, health maintenance~~
30 ~~organization, or any similar corporation, organization~~ any
31 public coverage, or a any self-insured employee benefit plan,
32 for the purpose of covering medical expenses. These expenses
33 may include but are not limited to hospital, surgical, major
34 medical insurance, dental, optical, prescription drugs, office
35 visits, or any combination of these or any other comparable

1 health care expenses.

2 9. "Health care coverage" or "coverage" means providing and
3 paying for the medical needs of a dependent through a health
4 benefit plan.

5 ~~8.~~ 10. "Insurer" means any entity which provides a health
6 benefit plan, but does not include an entity that provides
7 public coverage.

8 ~~9.~~ 11. "Medical support" means either the provision of a
9 health benefit plan, including a group or employment-related
10 or an individual health benefit plan, or a health benefit plan
11 provided pursuant to ~~chapter 514E~~, to meet the medical needs
12 of a dependent and the cost of any premium required by a health
13 benefit plan, care coverage or the payment to the obligee of
14 a monetary amount in lieu of a health benefit plan, either
15 of which is an obligation separate from any monetary amount
16 of child cash medical support ordered to be paid. Medical
17 support "Medical support" is not alimony. Medical support which
18 consists of payment of a monetary amount in lieu of a health
19 benefit plan is also an obligation separate from any monetary
20 amount a parent is ordered to pay for uncovered medical
21 expenses pursuant to the guidelines established pursuant to
22 ~~section 598.21B~~.

23 ~~10.~~ 12. "National medical support notice" means a notice
24 as prescribed under 42 U.S.C. §666(a)(19) or a substantially
25 similar notice, that is issued and forwarded by the department
26 in accordance with section 252E.4 to enforce medical support
27 the health care coverage provisions of a support order. The
28 national medical support notice is not applicable to a provider
29 of public coverage.

30 ~~11.~~ 13. "Obligee" means a parent or another natural person
31 legally entitled to receive a support payment on behalf of a
32 child.

33 ~~12.~~ 14. "Obligor" means a parent or another natural person
34 legally responsible for the support of a dependent.

35 ~~13.~~ 15. "Order" means a support order entered pursuant to

1 chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any
2 other support chapter, or pursuant to a comparable statute of
3 another state or foreign country, or an ex parte order entered
4 pursuant to section 252E.4. "Order" also includes a notice of
5 such an order issued by the department.

6 ~~14.~~ 16. "*Plan administrator*" means the employer or sponsor
7 that offers the health benefit plan or the person to whom the
8 duty of plan administrator is delegated by the employer or
9 sponsor offering the health benefit plan, by written agreement
10 of the parties. "*Plan administrator*" does not include a
11 provider of public coverage.

12 ~~15.~~ 17. "*Primary care provider*" means a physician who
13 provides primary care who is a family or general practitioner,
14 a pediatrician, an internist, an obstetrician, or a
15 gynecologist.

16 18. "*Public coverage*" means health care benefits provided by
17 any form of federal or state medical assistance, including but
18 not limited to benefits provided under chapter 249A or 514I,
19 or under comparable laws of another state, foreign country, or
20 Indian nation or tribe.

21 19. "*Unit*" or "*child support recovery unit*" means unit as
22 defined in section 252B.1.

23 Sec. 3. Section 252E.1A, Code 2018, is amended to read as
24 follows:

25 252E.1A Establishing and modifying orders for medical
26 support.

27 1. This section shall apply to all initial or modified
28 orders for support entered under chapter 234, 252A, 252C, 252F,
29 252H, 598, 600B, or any other applicable chapter. If an action
30 to establish or modify an order for support is initiated by the
31 child support recovery unit, section 252E.1B shall also apply.

32 ~~1.~~ 2. An order or judgment that provides for temporary or
33 permanent support for a child shall include a provision for
34 medical support for the child as provided in this section.

35 ~~2.~~ 3. The court shall order as medical support for the

1 child health care coverage if a health benefit plan if other
2 than public coverage is available to either parent at the time
3 the order is entered or modified. A health benefit plan is
4 available if the plan is accessible and the cost of the plan is
5 reasonable.

6 a. The cost of a health benefit plan is considered
7 reasonable, and such amount shall be stated in the order, if
8 one of the following applies:

9 (1) The premium cost for a child to the parent ordered
10 to provide ~~the plan~~ coverage does not exceed five percent of
11 that parent's gross income or the child support guidelines
12 established pursuant to [section 598.21B](#) specifically provide an
13 alternative income-based numeric standard for determining the
14 reasonable cost of the premium, in which case the reasonable
15 cost of the premium as determined by the standard specified by
16 the child support guidelines shall apply.

17 (2) The premium cost for a child exceeds the amount
18 specified in subparagraph (1) and that parent consents or does
19 not object to entry of that order.

20 b. For purposes of [this section](#), "gross income" has the same
21 meaning as gross income for calculation of support under the
22 guidelines established under [section 598.21B](#).

23 c. For purposes of [this section](#), "the premium cost for
24 *a child to the parent*" ordered to provide ~~the plan~~ coverage
25 means the amount of the premium cost for family coverage to
26 the parent which is in excess of the premium cost for single
27 coverage, regardless of the number of individuals covered under
28 the plan. ~~However, this paragraph shall not be interpreted to~~
29 ~~reduce the amount of the health insurance premium deduction~~
30 ~~a parent may be entitled to when calculating the amount of a~~
31 ~~child support obligation under [Iowa court rule 9.5](#) of the child~~
32 ~~support guidelines.~~

33 d. For purposes of this section, "family coverage" means
34 coverage that covers multiple individuals and covers or could
35 cover the child or children subject to the child support order.

1 ~~3.~~ 4. If a health benefit plan other than public coverage
2 is not available to either parent at the time of the entry
3 of the order, and the custodial parent does not have public
4 coverage for the child, the court shall order ~~a reasonable~~
5 ~~monetary cash medical support in an amount in lieu of a health~~
6 ~~benefit plan~~, which amount shall be stated in the order. For
7 ~~purposes of this subsection~~, a reasonable amount means five
8 ~~percent of the gross income of the parent ordered to provide~~
9 ~~the monetary amount for medical support or, if the child~~
10 ~~support guidelines established pursuant to section 598.21B~~
11 ~~specifically provide an alternative income-based numeric~~
12 ~~standard for determining the reasonable amount, a reasonable~~
13 ~~amount means the amount as determined by the standard specified~~
14 ~~by the child support guidelines.~~ This subsection shall not
15 apply in any of the following circumstances:

16 a. If the parent's monthly support obligation established
17 pursuant to the child support guidelines prescribed by the
18 supreme court pursuant to section 598.21B is the minimum
19 obligation amount. If this paragraph applies, the court shall
20 order the parent to provide a health ~~benefit plan~~ care coverage
21 when a plan becomes available for which there is no premium
22 cost for a child to the parent.

23 b. If subsection 7, paragraph "d", "e", or "f" applies the
24 noncustodial parent does not have income which may be subject
25 to income withholding for collection of cash medical support at
26 the time of the entry of the order. If this paragraph applies,
27 the court shall order the noncustodial parent to provide health
28 care coverage when a health benefit plan becomes available at
29 a reasonable cost, and the order shall specify the amount of
30 the reasonable cost as specified in subsection 3, paragraph "a",
31 subparagraph (1).

32 c. If the noncustodial parent is receiving assistance or
33 is residing with any child receiving assistance as provided
34 in section 252E.2A, subsection 1, paragraph "c", subparagraph
35 (3) or (4). If this paragraph applies, the court shall order

1 the noncustodial parent to provide health care coverage when
2 a health benefit plan becomes available for which there is no
3 premium cost for a child to the parent.

4 ~~4.~~ 5. If a health benefit plan other than public coverage
5 is not available to either parent at the time of the entry of
6 the order, and the custodial parent has public coverage for the
7 child, the court orders shall order the custodial parent to
8 provide a health benefit plan under ~~subsection 2~~ care coverage,
9 and the court may also shall order the noncustodial parent to
10 provide a reasonable monetary pay cash medical support, which
11 amount in lieu of a health benefit plan shall be stated in the
12 order, unless an exception under subsection 4 applies. For
13 purposes of ~~this subsection~~, a reasonable monetary amount means
14 an amount not to exceed the lesser of a reasonable amount as
15 described in ~~subsection 3~~, or the premium cost of coverage for
16 the child to the custodial parent as described in subsection
17 2, paragraph "c".

18 ~~5.~~ 6. Notwithstanding the requirements of ~~this section~~, the
19 court may order provisions in the alternative to those provided
20 in ~~this section~~ to address the health care needs of the child
21 if the court determines that extreme circumstances so require
22 and documents the court's written findings in the order.

23 ~~6.~~ 7. An order, decree, or judgment entered before ~~July 1,~~
24 ~~2009~~ October 1, 2018, that provides for the support of a child
25 may be modified in accordance with ~~this section~~.

26 ~~7.~~ If the child support recovery unit is providing services
27 under ~~chapter 252B~~ and initiating an action to establish or
28 modify support, all of the following shall also apply:

29 ~~a.~~ If a health benefit plan is available as described in
30 ~~subsection 2~~ to the noncustodial parent, the unit shall seek an
31 order for the noncustodial parent to provide the plan.

32 ~~b.~~ If a health benefit plan is available as described
33 in ~~subsection 2~~ to the custodial parent and not to the
34 noncustodial parent, the unit shall seek an order for the
35 custodial parent to provide the plan.

1 ~~c. If a health benefit plan is available as described in~~
2 ~~subsection 2 to each parent, and if there is an order for joint~~
3 ~~physical care, the unit shall seek an order for the parent~~
4 ~~currently ordered to provide a health benefit plan to provide~~
5 ~~the plan. If there is no current order for a health benefit~~
6 ~~plan for the child, the unit shall seek an order for the parent~~
7 ~~who is currently providing a health benefit plan to provide the~~
8 ~~plan.~~

9 ~~d. If a health benefit plan is not available, and the~~
10 ~~noncustodial parent does not have income which may be subject~~
11 ~~to income withholding for collection of a reasonable monetary~~
12 ~~amount in lieu of a health benefit plan at the time of the~~
13 ~~entry of the order, the unit shall seek an order that the~~
14 ~~noncustodial parent provide a health benefit plan when a plan~~
15 ~~becomes available at reasonable cost, and the order shall~~
16 ~~specify the amount of reasonable cost as defined in subsection~~
17 ~~2.~~

18 ~~e. If a health benefit plan is not available, and the~~
19 ~~noncustodial parent is receiving assistance or is residing with~~
20 ~~any child receiving assistance as provided in section 252E.2A,~~
21 ~~subsection 1, paragraph "c", subparagraph (3) or (4), the unit~~
22 ~~shall seek an order that the noncustodial parent shall provide~~
23 ~~a health benefit plan when a plan becomes available for which~~
24 ~~there is no premium cost for a child to the parent.~~

25 ~~f. This section shall not apply to chapter 252H, subchapter~~
26 ~~IV.~~

27 **Sec. 4. NEW SECTION. 252E.1B Establishing and modifying**
28 **orders for medical support — actions initiated by child support**
29 **recovery unit.**

30 1. If the child support recovery unit is initiating an
31 action to establish or modify support, this section shall apply
32 in addition to the provisions of section 252E.1A.

33 2. The unit shall apply the following order of priority when
34 the unit enters or seeks an order for medical support:

35 a. If the custodial parent is currently providing coverage

1 for the child under a health benefit plan other than public
2 coverage, and the plan is available as described in section
3 252E.1A, subsection 3, the unit shall enter or seek an order
4 for the custodial parent to provide coverage.

5 *b.* If the noncustodial parent is currently providing
6 coverage for the child under a health benefit plan other than
7 public coverage, and the plan is available as described in
8 section 252E.1A, subsection 3, the unit shall enter or seek an
9 order for the noncustodial parent to provide coverage.

10 *c.* If a health benefit plan other than public coverage is
11 available as described in section 252E.1A, subsection 3, to the
12 custodial parent, the unit shall enter or seek an order for the
13 custodial parent to provide coverage.

14 *d.* If a health benefit plan other than public coverage is
15 available as described in section 252E.1A, subsection 3, to the
16 noncustodial parent, the unit shall enter or seek an order for
17 the noncustodial parent to provide coverage.

18 *e.* If a health benefit plan other than public coverage is
19 not available to either parent, and the custodial parent has
20 public coverage for the child, the unit shall enter or seek an
21 order for the custodial parent to provide health care coverage
22 and shall enter or seek an order for the noncustodial parent to
23 pay cash medical support. However, if any of the circumstances
24 described in section 252E.1A, subsection 4, paragraph "*a*",
25 "*b*", or "*c*" is met, the unit shall enter or seek an order as
26 specified by the applicable paragraph.

27 3. Notwithstanding subsection 2, if there is an order for
28 joint physical care for the child and the parties subject to
29 the support order, the unit shall apply the following order of
30 priority when the unit enters or seeks an order for medical
31 support:

32 *a.* If only one parent is currently providing coverage
33 for the child under a health benefit plan other than public
34 coverage, and the plan is available as described in section
35 252E.1A, subsection 3, the unit shall enter or seek an order

1 for that parent to provide coverage.

2 *b.* If both parents are currently providing coverage for the
3 child under a health benefit plan other than public coverage,
4 and both plans are available as described in section 252E.1A,
5 subsection 3, the unit shall enter or seek an order for both
6 parents to provide coverage.

7 *c.* If neither parent is currently providing coverage
8 for the child under a health benefit plan other than public
9 coverage, and a health benefit plan other than public coverage
10 is available as described in section 252E.1A, subsection 3,
11 to one parent, the unit shall enter or seek an order for that
12 parent to provide coverage.

13 *d.* If neither parent is currently providing coverage
14 for the child under a health benefit plan other than public
15 coverage, and a health benefit plan other than public coverage
16 is available as described in section 252E.1A, subsection 3, to
17 both parents, the unit shall enter or seek an order for both
18 parents to provide coverage.

19 *e.* If a health benefit plan other than public coverage
20 is not available to either parent and one parent has public
21 coverage for the child, the unit shall enter or seek an order
22 for that parent to provide health care coverage.

23 4. The child support recovery unit or the court shall not
24 order any modification to an existing medical support order
25 in a proceeding conducted solely pursuant to chapter 252H,
26 subchapter IV.

27 Sec. 5. Section 252E.2, subsection 1, Code 2018, is amended
28 to read as follows:

29 1. An order requiring the provision of coverage under a
30 health benefit plan other than public coverage is authorization
31 for enrollment of the dependent if the dependent is otherwise
32 eligible to be enrolled. The dependent's eligibility and
33 enrollment for coverage under such a plan shall be governed by
34 all applicable terms and conditions, including, but not limited
35 to, eligibility and insurability standards. The dependent, if

1 eligible, shall be provided the same coverage as the obligor.

2 Sec. 6. Section 252E.3, Code 2018, is amended to read as
3 follows:

4 **252E.3 Health ~~benefit~~ care coverage of obligee.**

5 For cases for which services are being provided pursuant
6 to [chapter 252B](#), the order may require an obligor providing a
7 health ~~benefit-plan~~ care coverage for a child to also provide a
8 health ~~benefit-plan~~ care coverage for the benefit of an obligee
9 if the obligee is eligible for enrollment under the plan in
10 which the child or the obligor is enrolled, and if ~~the plan~~
11 coverage for the obligee is available at no additional cost.

12 Sec. 7. Section 252E.4, subsection 1, Code 2018, is amended
13 to read as follows:

14 1. When a support order requires an obligor to provide
15 coverage under a health benefit plan other than public
16 coverage, the district court or the department may enter an
17 ex parte order directing an employer to take all actions
18 necessary to enroll an obligor's dependent for coverage under
19 a health benefit plan or may include the provisions in an ex
20 parte income withholding order or notice of income withholding
21 pursuant to [chapter 252D](#). The child support recovery unit,
22 where appropriate, shall issue a national medical support
23 notice to an employer within two business days after the
24 date information regarding a newly hired employee is entered
25 into the centralized employee registry and matched with a
26 noncustodial parent in the case being enforced by the unit, or
27 upon receipt of other employment information for such parent.
28 The department may amend the information in the ex parte order
29 or may amend or terminate the national medical support notice
30 regarding health insurance provisions if necessary to comply
31 with health insurance requirements including but not limited to
32 the provisions of [section 252E.2, subsection 2](#), or to correct
33 a mistake of fact.

34 Sec. 8. Section 252E.16, subsection 1, Code 2018, is amended
35 to read as follows:

1 1. ~~The~~ Unless otherwise specified, the provisions of this
2 chapter take effect July 1, 1990, for all support orders
3 entered pursuant to chapter 234, 252A, 252C, 598, or 600B.

4 Sec. 9. ADMINISTRATIVE RULES — TRANSITION. Until such
5 time as the department of human services adopts rules pursuant
6 to chapter 17A necessary to administer this Act, all of the
7 following shall apply:

8 1. The child support recovery unit may initiate proceedings
9 to establish and modify support orders in accordance with
10 chapter 252E, as amended in this Act.

11 2. The child support recovery unit may, to the extent
12 appropriate, apply and utilize procedures, rules, and forms
13 substantially similar to those applicable and utilized pursuant
14 to section 252E.1B, as enacted in this Act, for proceedings
15 initiated in accordance with section 252E.1A.

16 Sec. 10. EFFECTIVE DATE. This Act takes effect October 1,
17 2018.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill amends provisions relating to medical support
22 for a child, based on the final rule adopted by the centers
23 for Medicare and Medicaid services and the administration
24 for children and families of the United States department of
25 health and human services on December 20, 2016, pursuant to
26 Executive Order 13563 of January 18, 2011. Under 45 C.F.R.
27 subtitle B, chapter III, section 303.31, specifically, states
28 are provided with flexibility to permit parents to meet their
29 medical support obligations by providing health care coverage
30 or payment for medical expenses that are reasonable in cost and
31 best meet the health care needs of the child, and clarifies
32 that health care coverage includes public and private coverage.

33 The bill provides definitions including "cash medical
34 support", "health care coverage", and "public coverage", and
35 includes public coverage in the definition of a "health benefit

1 plan".

2 The bill provides for the provision of medical support
3 either by providing and paying for the medical needs of a
4 dependent through a health benefit plan, including public
5 coverage, or the payment of cash medical support. The bill
6 provides the conditions for determining whether medical support
7 is to be provided through a health benefit plan other than
8 public coverage or through public coverage and whether the
9 custodial or noncustodial parent is required to provide health
10 care coverage.

11 The bill also provides the process and order of priority to
12 be followed when the child support recovery unit (CSRU) enters
13 or seeks an order for medical support.

14 The bill directs the department of human services to adopt
15 rules pursuant to Code chapter 17A as necessary to administer
16 the bill, but provides that until such time as rules are
17 adopted the CSRU may initiate proceedings to establish and
18 modify support orders in accordance with Code chapter 252E,
19 as amended in the bill, and may, to the extent appropriate,
20 apply and utilize procedures, rules, and forms substantially
21 similar to those applicable and utilized pursuant to Code
22 section 252E.1B for proceedings initiated in accordance with
23 Code section 252E.1A, as enacted in the bill.

24 The bill takes effect October 1, 2018.